

28 FEB 1975

MEMORANDUM FOR: Legislative Counsel

VIA : Deputy Director for Administration
SUBJECT : H. R. 564

1. The stated purpose of the attached Bill introduced in the House of Representatives by Congressman Koch on 14 January 1975 is to "protect the constitutional rights of the citizens of the United States and prevent unwarranted invasion of their privacy by prohibiting the use of polygraph" on any employee of the United States or any applicant for employment with the United States Government.
2. The current Bill is a word for word resubmission of a bill sponsored by Congressman Koch in 1971.
3. As we interpret this Bill, there are no provisions for an exception. If it were to become law, the polygraph program of this Agency would be at an end in all instances where United States citizens are involved.
4. We, of course, find strong reason to support continuing the polygraph program. During the period January 1963 to August 1974, 1773 staff applicants, and staff-type applicants were rejected or dismissed on security grounds. Of these, 601 were rejected on information solely or principally developed during polygraph interviews. Sampling only the current records, 521 of those disapproved on the basis of polygraph reports had been security approved up until the time of the polygraph interviews. Without the polygraph, the disqualifying information on these cases would have been unknown to the Agency.
5. This is not the first time that we have written in defense of polygraph or that Agency spokesmen have presented the polygraph case to congressional representatives.

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As recently as June 1974, during hearings before the Subcommittee on Foreign Operations and Government Information, Mr. Harold Brownman spoke of the precautions taken by the Agency to protect the individual rights of U. S. citizens during polygraph. Those precautions still apply and are rigidly enforced. Mr. Brownman also discussed the Agency's research program which has spanned a period of ten years and resulted in the polygraph being described as a reliable and effective part of the Agency's personnel security screening. (H. R. 564 has been referred to the Committee on the Judiciary rather than the Subcommittee on Foreign Operations and Government.)

6. We appreciate and share Mr. Koch's concern for constitutional rights and individual privacy, but we are also mindful of the important contribution polygraph has made to the Agency's security program and to national security. It is because of this contribution and because it is believed that the polygraph can continue to be used without unwarranted invasion of privacy that this Office strongly recommends Agency opposition to H. R. 564.

STATINTL

Charles W. Kane
Director of Security

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ADMINISTRATIVE - INTERNAL USE ONLY

94TH CONGRESS
1ST SESSION

H. R. 564

IN THE HOUSE OF REPRESENTATIVES

JANUARY 14, 1975

Mr. Koch introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To protect the constitutional rights of citizens of the United States and to prevent unwarranted invasion of their privacy by prohibiting the use of the polygraph for certain purposes.

1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

3. **SECTION 1.** It shall be unlawful for any officer or employee of any executive department or agency or any individual acting under the authority of such officer and employee
6. to do the following:

7. (a) to require or request, or to attempt to require
8. or request, any officer or employee of the United States,
9. or any individual applying for employment as an officer

- 1 or employee of the United States, to take any polygraph
2 test in connection with his services or duties as such
3 officer or employee, or in connection with such indi-
4 vidual's application for employment;
- 5 (b) to deny employment to any individual, or to
6 discharge discipline, or deny promotion to any officer or
7 employee of the United States, or to threaten to commit
8 any such act by reason of his refusal or failure to submit
9 to such requirement or request.
- 10 Sec. 2. It shall be unlawful for any person engaged in
11 any business or other activity in or affecting interstate com-
12 merce, or any individual acting under the authority of such
13 person to do the following:
- 14 (a) to require or request, or to attempt to require or
15 request any officer or employee employed by such per-
16 son or any individual applying for employment in con-
17 nection with such business or activity to take any poly-
18 graph test in connection with his services or duties or in
19 connection with his application for employment.
- 20 (b) to deny employment to any individual, or to
21 discharge, discipline, or deny promotion to any officer
22 or employee employed in connection with such business
23 or activity, or to threaten to commit such act by rea-
24 son of his refusal or failure to submit to such require-
25 ment or request.

1 Sec. 3. Whoever willfully violates or willfully attempts
2 to violate any of the provisions of this Act shall be guilty of
3 of a misdemeanor, and, upon conviction, shall be punished
4 by a fine not exceeding \$1,000, or by imprisonment not
5 exceeding one year, or by both such fine and imprisonment.

6 Sec. 4. (a) Whenever—

7 (1) any officer or employee of any executive de-
8 partment or any executive agency of the United States
9 Government, or any person acting or purporting to act
10 under his authority, or

11 (2) any commissioned officer as defined in section
12 101 of title 10, United States Code, or any member
13 of the Armed Forces acting or purporting to act under
14 his authority, or

15 (3) any person engaged in any business or other
16 activity in or affecting interstate commerce, or any in-
17 dividual acting under the authority of such person,

18 violates or threatens to violate any of the provisions of sec-
19 tion 1 or 2 of this Act, any employee or officer of the United
20 States, or any person applying for employment in the exec-
21 tive branch of the United States Government, or any person
22 seeking to establish civil service status or eligibility for
23 employment in the executive branch of the United States
24 Government, or any individual applying for employment in

1 ing interstate commerce, or any employee or officer employed
2 by a person engaged in such business or activity, who is
3 affected or aggrieved by the violation or threatened violation,
4 may bring a civil action in his own behalf or in behalf of him-
5 self and others similarly situated, against the offending officer
6 or employee or person in the United States District Court for
7 the district in which the violation occurs or is threatened, or
8 for the district in which the offending officer or person is
9 found, or in the United States District Court for the District
10 of Columbia, to prevent the threatened violation or to obtain
11 redress against the consequences of the violation.

12 (b) Such United States district court shall have jur-
13 diction to try and determine such civil action irrespective of
14 the actuality or amount of pecuniary injury done or threat-
15 ened, and without regard to whether the aggrieved party
16 shall have exhausted any administrative remedies that may
17 be provided by law, and to issue such restraining order, inter-
18 locutory injunction, permanent injunction, or mandatory
19 injunction, or enter such other judgment or decree as may be
20 necessary or appropriate to prevent the threatened viola-
21 tion, or to afford the plaintiff and others similarly situated
22 complete relief against the consequences of the violation.

23 (c) With the written consent of any person affected or
24 aggrieved by a violation or threatened violation of section
25 25 of this Act, any employee organization may bring

1 such action on behalf of such person, or may intervene in
2 such action. For the purposes of this section, employee or-
3 ganizations shall be construed to include any brotherhood,
4 council, federation, organization, union, or professional orga-
5 nization made up in whole or in part of employees and which
6 has as one of its purposes dealing with departments, agencies,
7 commissions, independent agencies of the United States, or
8 with businesses and industries engaged in or affecting inter-
9 state commerce, concerning the conditions and terms of em-
10 ployment of such employees.